



GENERAL ASSEMBLY

COMMONWEALTH OF KENTUCKY

2011 REGULAR SESSION

HOUSE BILL NO. 256

CORRECTED

TUESDAY, FEBRUARY 15, 2011

The following bill was reported to the Senate from the House and ordered to be printed.

RECEIVED AND FILED
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ELAINE N. WALKER
SECRETARY OF STATE
COMMONWEALTH OF KENTUCKY
BY J. Kinsolving

1 AN ACT relating to the Kentucky Housing Corporation and declaring an
2 emergency.

3 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

4 → Section 1. KRS 198A.010 is amended to read as follows:

5 As used in this chapter, the following words and terms, unless the context clearly
6 indicates a different meaning, shall have the following respective meanings:

7 (1) "Area median income" means the greater of the statewide median family income
8 or the median family income for the area in which the residence is located, as
9 calculated each year by the federal Department of Housing and Urban
10 Development for use in determining eligibility for housing programs;

11 (2) "Bonds" or "notes" means the bonds or bond anticipation notes authorized to be
12 issued by the corporation under this chapter but shall not include any fund notes;

13 (3) "Commonwealth" means the Commonwealth of Kentucky;

14 (4) "Corporation" means the Kentucky Housing Corporation created by this
15 chapter;

16 (5) "Sponsors" means persons, corporations, associations, partnerships, or other
17 entities, consumer housing cooperatives and limited dividend housing corporations,
18 associations, partnerships, or other entities organized pursuant to the Kentucky
19 Revised Statutes for the primary purpose of providing housing to persons and
20 families of lower and moderate income, and shall include without limitation
21 organizations engaged in the production, origination, and development of
22 residential housing units intended to qualify for financial assistance pursuant to
23 Section 8 of the United States Housing Act of 1937, as amended;

24 (6) "Development costs" means the costs approved by the corporation as
25 appropriate expenditures and credits which may be incurred by sponsors of
26 residential housing, prior to commitment and initial advance of the proceeds of a
27 construction loan or of a mortgage loan, including but not limited to:

- 1 (a) Payments for options to purchase properties on the proposed residential
 2 housing site, deposits on contracts of purchase, or, with prior approval of the
 3 corporation, payments for the purchase of properties;
- 4 (b) Legal and organizational expenses, including payments of attorney's fees,
 5 project manager, clerical, and other staff salaries, office rent, and other
 6 incidental expenses;
- 7 (c) Payment of fees for preliminary feasibility studies and advances for planning,
 8 engineering, and architectural work;
- 9 (d) Expenses for tenant surveys and market analyses;
- 10 (e) Necessary application and other fees; and
- 11 (f) Credits allowed by the corporation to recognize the value of service provided
 12 at no cost by the sponsors, builders, and/or developers;
- 13 ~~(7)~~~~(6)~~ "Fund notes" means the notes authorized to be issued by the corporation under
 14 the provisions of KRS 198A.080;
- 15 ~~(8)~~~~(7)~~ "Governmental agency" means any city, county, or other political subdivision
 16 of the Commonwealth, the Commonwealth and any department, division, or public
 17 agency thereof, the federal government or any political subdivision of any other
 18 state, any public housing authority or any nonprofit corporation or other entity
 19 legally empowered to act on behalf of any of the foregoing to perform the duties of
 20 a public housing authority, or any two (2) or more thereof;
- 21 ~~(9)~~~~(8)~~ "Housing development fund" means the housing development fund created by
 22 KRS 198A.080;
- 23 ~~(10)~~~~(9)~~ "Insured construction loan" means a construction loan for land development
 24 or residential housing which is secured by a mortgage either insured or guaranteed
 25 by or for which there is a commitment to insure or guarantee by:
- 26 (a) The United States of America or any agency or instrumentality thereof; or
- 27 (b) Any other entity which has been duly approved for the insuring of such loans

by the United States of America or by the Commonwealth of Kentucky or any agency or instrumentality thereof;

~~(11)~~~~(10)~~ "Insured mortgage" or "insured mortgage loan" means a mortgage loan for land development for residential housing or for residential housing either made, insured, or guaranteed by or for which there is a commitment to make, insure, and guarantee by:

(a) The United States of America or any agency or instrumentality thereof; or

(b) Any other entity, including private mortgage insurance, which has been duly approved for the insuring of such loans by the United States of America or by the Commonwealth or any agency or instrumentality thereof and shall also refer to and mean any loan for residential housing not secured by mortgage which is insured or guaranteed to at least eighty-five percent (85%) of its principal amount by the United States of America or any agency or instrumentality thereof;

~~(12)~~~~(11)~~ "Land development" means the process of acquiring land primarily for residential housing construction for persons and families of lower and moderate income and making, installing, or constructing nonresidential housing improvements, including water, sewer, and other utilities, roads, streets, curbs, gutters, sidewalks, storm drainage facilities, and other installations or works, whether on or off the site, which the corporation deems necessary or desirable to prepare the land primarily for residential housing construction;

~~(13)~~~~(12)~~ "Obligations" means any bonds, bond anticipation notes, or fund notes authorized to be issued by the corporation under the provisions of this chapter;

~~(14)~~~~(13)~~ "Persons and families of lower and moderate income" shall include only those individuals whose family income combined does not exceed the income requirements defined under Section 143 of the Internal Revenue Code of 1986, as amended;

1 ~~(15)~~[(14)] "Residential housing" means a specific work or improvement undertaken
 2 primarily to provide dwelling accommodations for persons and families of lower
 3 and moderate income, including the acquisition, construction, or rehabilitation of
 4 land, buildings, and improvements, and other nonhousing facilities as may be
 5 incidental; and

6 ~~(16)~~[(15)] "Tenant programs and services" means services and activities for persons and
 7 families living in residential housing, including the following:

- 8 (a) Counseling on household management, housekeeping, budgeting, and money
 9 management;
- 10 (b) Child care and similar matters;
- 11 (c) Access to available community services related to job training and placement,
 12 education, health, welfare, and other community services;
- 13 (d) Guard and other matters related to the physical security of the housing
 14 residents;
- 15 (e) Effective management-tenant relations, including tenant participation in all
 16 aspects of housing administration, management, and maintenance;
- 17 (f) Physical improvements of the housing, including buildings, recreational and
 18 community facilities, safety measures, and removal of code violations;
- 19 (g) Advisory services for tenants in the creation of tenant organizations which
 20 will assume a meaningful and responsible role in the planning and carrying
 21 out of housing affairs; and
- 22 (h) Procedures whereby tenants, either individually or in a group, may be given a
 23 hearing on questions relating to management policies and practices, either in
 24 general or in relation to an individual or family.

25 ➔Section 2 KRS 198A.040 is amended to read as follows:

26 The corporation shall have all of the powers necessary or convenient to carry out and
 27 effectuate the purposes and provisions of this chapter, including but without limiting the

1 generality of the foregoing the power:

2 (1) To make or participate in the making of insured construction loans to sponsors of
3 land development or residential housing; provided, however, that such loans shall
4 be made only upon the determination by the corporation that construction loans
5 have been refused in writing, wholly or in part, from private lenders in the
6 Commonwealth of Kentucky upon reasonably equivalent terms and conditions;

7 (2) To make or participate in the making of insured mortgage loans to sponsors of
8 residential housing; provided, however, that such loans shall be made only upon the
9 determination by the corporation that mortgage loans have been refused in writing,
10 wholly or in part, from private lenders in the Commonwealth of Kentucky upon
11 reasonably equivalent terms and conditions;

12 (3) To purchase or participate in the purchase of insured mortgage loans made to
13 sponsors of residential housing or to persons of lower and moderate income for
14 residential housing; provided, however, that any such purchase shall be made only
15 upon the determination by the corporation that mortgage loans have been refused in
16 writing, wholly or in part, from private lenders in the Commonwealth of Kentucky
17 upon reasonably equivalent terms and conditions;

18 (4) To make temporary loans from the housing development fund;

19 (5) To collect and pay reasonable fees and charges in connection with making,
20 purchasing and servicing its loans, notes, bonds, commitments, and other evidences
21 of indebtedness;

22 (6) To acquire real property, or any interest therein, by purchase, foreclosure, lease,
23 sublease, or otherwise; to own, manage, operate, hold, clear, improve, and
24 rehabilitate such real property; and to sell, assign, exchange, transfer, convey, lease,
25 mortgage, or otherwise dispose of or encumber such real property where such use of
26 real property is necessary or appropriate to the purpose of the Kentucky Housing
27 Corporation;

- 1 (7) To sell, at public or private sale, all or any part of any mortgage or other instrument
2 or document securing a construction, land development, mortgage, or temporary
3 loan of any type permitted by this chapter;
- 4 (8) To procure insurance against any loss in connection with its operations in such
5 amounts, and from such insurers, as it may deem necessary or desirable;
- 6 (9) To consent, whenever it deems it necessary or desirable in the fulfillment of its
7 corporate purposes, to the modification of the rate of interest, time of payment of
8 any installment of principal or interest, or any other terms of any mortgage loan,
9 mortgage loan commitment, construction loan, temporary loan, contract, or
10 agreement of any kind to which the corporation is a party;
- 11 (10) To acquire, establish, operate, lease, and sublease residential housing for persons
12 and families of lower and moderate income and to enter into agreements or other
13 transactions with any federal, state, or local governmental agency for the purpose of
14 providing adequate living quarters for such persons and families in cities and
15 counties where a need has been found for such housing and where no local housing
16 authorities or other organizations exist to fill such need;
- 17 (11) To include in any borrowing such amounts as may be deemed necessary by the
18 corporation to pay financing charges, interest on the obligations for a period not
19 exceeding two (2) years from their date, consultant, advisory, and legal fees and
20 such other expenses as are necessary or incident to such borrowing;
- 21 (12) To make and publish rules and regulations respecting its lending programs and such
22 other rules and regulations as are necessary to effectuate its corporate purposes;
- 23 (13) To provide technical and advisory services to sponsors of residential housing and to
24 residents and potential residents thereof, including but not limited to housing
25 selection and purchase procedures, family budgeting, property use and maintenance,
26 household management, and utilization of community resources;
- 27 (14) To promote research and development in scientific methods of constructing low

1 cost residential housing of high durability;

2 (15) To encourage community organizations to participate in residential housing
3 development;

4 (16) To make, execute, and effectuate any and all agreements or other documents with
5 any governmental agency or any person, corporation, association, partnership, or
6 other organization or entity, necessary to accomplish the purposes of this chapter;

7 (17) To accept gifts, devises, bequests, grants, loans, appropriations, revenue sharing,
8 other financing and assistance, and any other aid from any source whatsoever and to
9 agree to, and to comply with, conditions attached thereto;

10 (18) To sue and be sued in its own name and plead and be impleaded;

11 (19) To maintain an office in the city of Frankfort and at such other place or places as it
12 may determine;

13 (20) To adopt an official seal and alter the same at pleasure;

14 (21) To adopt bylaws for the regulation of its affairs and the conduct of its business and
15 to prescribe rules, regulations, and policies in connection with the performance of
16 its functions and duties;

17 (22) To employ fiscal consultants, engineers, attorneys, real estate counselors,
18 appraisers, and such other consultants and employees as may be required in the
19 judgment of the corporation and to fix and pay their compensation from funds
20 available to the corporation therefor, provided that any personal service contracts
21 entered into shall be subject to review by the Government Contract Review
22 Committee of the Legislative Research Commission;

23 (23) To invest any funds held in reserve or in sinking fund accounts or any moneys not
24 required for immediate disbursement in obligations guaranteed by the
25 Commonwealth, the United States, or their agencies or instrumentalities; provided,
26 however, that the return on such investments shall not violate any rulings of the
27 Internal Revenue Service regarding the investment of the proceeds of any federally

- 1 tax exempt bond issue;
- 2 (24) To make or participate in the making of rehabilitation loans to the sponsors or
3 owners of residential housing; provided, however, that any such rehabilitation loan
4 shall be made only upon the determination by the corporation that the rehabilitation
5 loan was not otherwise available wholly or in part from private lenders upon
6 reasonably equivalent terms and conditions;
- 7 (25) To insure or reinsure construction, mortgage, and rehabilitation loans on residential
8 housing; provided, however, that any such insurance, reinsurance, or waiver shall be
9 made only upon the determination by the corporation:
- 10 (a) That such insurance or reinsurance is not otherwise available wholly or in part
11 from private insurers upon reasonably equivalent terms and conditions; and
- 12 (b) That such loan is a reasonably sound business investment; and provided
13 further that insurance may be waived only where the corporation finds that the
14 amount of the loan does not exceed eighty-five percent (85%) of the
15 development costs, or eighty-five percent (85%) of the value of the property
16 secured by the mortgage as determined by at least two (2) appraisers who are
17 independent of the sponsors, builders, and developers;
- 18 (26) To make grants from appropriated funds, agency and trust funds, and any other
19 funds from any source available to the corporation, to sponsors, municipalities,
20 local housing authorities, and to owners of residential housing for the development,
21 construction, rehabilitation, or maintenance of residential housing and such
22 facilities related thereto as corporation shall deem important for a proper living
23 environment, all on such terms and conditions as may be deemed appropriate by the
24 corporation;
- 25 (27) To make periodic grants to reduce principal and interest payments on mortgages or
26 rentals payable by persons and families of lower and moderate income;
- 27 (28) (a) To make a grant to reduce principal and interest payments on a mortgage or a

rental payable by a regular member of the United States Armed Forces who names Kentucky as home of record for military purposes, during that member's deployment on active duty outside the United States, or payable by a member of a state National Guard or a Reserve component who names Kentucky as home of record for military purposes, during that member's federal active duty. To qualify for a grant, a member shall meet reasonable standards established by the corporation, including having family income equal to or less than two hundred percent (200%) of the state or area median income; and

(b) To provide a member identified in paragraph (a) of this subsection and that member's Kentucky resident spouse with the educational, technical, and ombudsman services that are necessary to maintain a mortgage during that member's federal active duty;~~[-and]~~

(29) To establish a program to assist persons and families of lower and moderate income to help defray the cost of assessment and decontamination services required under KRS 224.01-410. To qualify for the program, a person shall meet reasonable standards established by the corporation. A person shall not be eligible for the program if convicted of a felony or found by the corporation to be responsible for contamination of the relevant property through methamphetamine production. The corporation shall report on the establishment and use of this program to the Legislative Research Commission by October 1 of each year; and

(30) To establish single family mortgage lending programs outside of the mortgage revenue bond funds. To qualify for these programs, a person shall meet reasonable standards established by the corporation and shall have a combined family income that is equal to or less than one hundred seventy-five percent (175%) of the greater of the state or area median income.

The Kentucky Housing Corporation shall be exempt from the regulations of the

1 Department of Insurance and the laws of the Commonwealth relating thereto.

2 ➔Section 3 KRS 198A.065 is amended to read as follows:

- 3 (1) The General Assembly of the Commonwealth of Kentucky hereby finds and
 4 determines that in order to provide for the greatest possible participation by the
 5 corporation in programs for the insurance or guarantee of mortgage loans for the
 6 construction or rehabilitation of residential housing projects by the United States of
 7 America, or an agency or instrumentality thereof; or by any other entity, including
 8 private mortgage insurance, which has been duly approved for these loans by the
 9 United States of America or by the Commonwealth or any agency or instrumentality
 10 thereof, if the criteria for state approval are specified in administrative regulations
 11 promulgated under KRS Chapter 13A by the state agency granting the approval; or
 12 for mortgage loans that are insured or reinsured by the corporation under KRS
 13 198A.040(25), it is appropriate and proper that there be provision by which the
 14 maximum amounts of income for persons and families of lower and moderate
 15 income established by this chapter may be waived in certain circumstances so that
 16 the corporation may insure or reinsure mortgage loans or qualify for insurance or
 17 guarantee of mortgage loans.
- 18 (2) Notwithstanding the requirements of KRS 198A.010~~(14)~~~~(13)~~, 198A.060(1), or any
 19 other provisions of law to the contrary, the corporation may, by action of its board
 20 of directors, suspend or terminate any income-eligibility requirements established
 21 by this chapter, subject to subsection (3) of this section, upon written request of any
 22 private mortgage insurance company or any agency or instrumentality of the United
 23 States of America which has insured or guaranteed mortgage loans made by the
 24 corporation for the construction or rehabilitation of a specific residential housing
 25 project or for any mortgage loan insured or reinsured by the corporation under KRS
 26 198A.040(25), upon a finding by the board of directors of the existence of one (1)
 27 or more of the following conditions with respect to that project:

- 1 (a) Serious rental or occupancy problems which threaten the financial stability of
- 2 the project, defined as a project which cannot meet its debt service obligation
- 3 from available rental income; or
- 4 (b) A default as to one (1) or more of the terms of the mortgage loan; or
- 5 (c) A foreclosure of the mortgage loan; or
- 6 (d) A conveyance of real estate by a deed in lieu of foreclosure.

7 (3) If the corporation suspends or terminates income eligibility requirements relating to
 8 a project financed by a loan which is insured or guaranteed by a private mortgage
 9 insurance company or the corporation, the corporation shall file with the Legislative
 10 Research Commission notice of, and an explanation of the need for, the suspension
 11 or termination. The Commission shall refer the notice and explanation to the
 12 appropriate interim joint subcommittee for review. The corporation shall also
 13 provide to the reviewing subcommittee information relating to the management of,
 14 and plans for, the project.

15 ➔Section 4 KRS 198A.090 is amended to read as follows:

- 16 (1) Except as provided in subsection (6) of this section, the corporation may provide for
- 17 the issuance, at one (1) time or from time to time, of bonds of the corporation if the
- 18 cumulative outstanding indebtedness of the corporation's bonds does not exceed
- 19 five billion dollars (\$5,000,000,000), in order to carry out and effectuate its
- 20 corporate purposes and powers.
- 21 (2) In anticipation of the issuance of bonds, the corporation may provide for the
- 22 issuance, at one (1) time or from time to time, of bond anticipation notes. The
- 23 principal of and the interest on the bonds or notes shall be payable solely from the
- 24 funds provided for the payment. Notes may be made payable from the proceeds of
- 25 bonds or renewal notes or, if bond or renewal note proceeds are not available, notes
- 26 may be paid from any available revenues or assets of the corporation.
- 27 (3) The bonds or notes of each issue shall be dated and may be made redeemable before

1 maturity at the option of the corporation at a price and under terms and conditions
2 determined by the corporation. Bonds or notes shall bear interest at a rate
3 determined by the corporation. Notes shall mature at a time not exceeding ten (10)
4 years from their date and bonds shall mature at a time not exceeding forty (40) years
5 from their date, as determined by the corporation. The corporation shall determine
6 the form and manner of execution of the bonds or notes, including any interest
7 coupons to be attached thereto, and shall fix the denomination and the place of
8 payment of principal and interest, which may be any bank or trust company within
9 or without the Commonwealth. If an officer whose signature or a facsimile of
10 whose signature appears on any bonds, notes, or coupons attached to them shall
11 cease to be an officer before the delivery thereof, the signature or facsimile shall be
12 valid and sufficient for all purposes as if he had remained in office until delivery.
13 The corporation may provide for the authentication of the bonds or notes by a
14 trustee or fiscal agent. The bonds or notes may be issued in coupon or in registered
15 form, or both, as the corporation may determine, and provision may be made for the
16 registration of any coupon bonds or notes as to principal alone and also as to both
17 principal and interest, and for the reconversion into coupon bonds or notes of any
18 bonds or notes registered as to both principal and interest, and for the interchange of
19 registered and coupon bonds or notes. Upon the approval of a resolution of the
20 corporation, authorizing the sale of its bonds or notes, the bonds or notes may be
21 sold in a manner, either at public or private sale, and for a price the corporation
22 shall determine to be for the best interest of the corporation and best effectuate the
23 purposes of this chapter, if the sale is approved by the corporation.

24 (4) The proceeds of any bonds or notes shall be used solely for the purposes for which
25 they are issued and shall be disbursed in the manner and under the restrictions, if
26 any, the corporation may provide in the resolution authorizing the issuance of bonds
27 or notes or in the trust agreement securing the same.

(5) Prior to the preparation of definitive bonds, the corporation may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when the bonds have been executed and are available for delivery. The corporation may also provide for the replacement of any bonds or notes which become mutilated, destroyed, or lost.

(6) (a) Prior to the issuance of any bonds or notes that are not secured by:

1. Direct obligations or obligations guaranteed by the United States of America; or
2. Obligations of federal agencies to the extent that the obligations are backed by the full faith and credit of the United States of America; or
3. Repurchase agreements with any primary dealer in securities fully secured by obligations described in subparagraphs 1. and 2. of this paragraph if the market value of the security is maintained at one hundred three percent (103%) of the principal amount of the repurchase agreement and the security is held by an independent third-party custodian financial institution; or
4. Insured or guaranteed construction loans or mortgage loans as defined by KRS 198A.010~~[(9) and]~~(10) and (11); or
5. Guaranty insurance policies which guarantee payment of the principal and interest on the bonds issued by a nationally recognized entity authorized to issue guarantees and rated in the highest rating category by at least one (1) of the nationally recognized rating services;

the corporation shall obtain the approval of the issuance from the General Assembly in accordance with the provisions of KRS 56.870(1), unless the provisions of paragraph (b) of this subsection apply. This requirement shall not apply to refunding bond or note issues which are for the purpose of achieving debt service savings and which do not extend the term of the

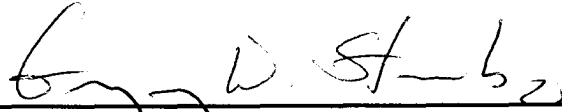
1 refunded bonds or notes.

2 (b) The corporation may provide for the issuance, at any one (1) time or from
3 time to time, of bonds which do not satisfy the requirements of paragraph (a)
4 of this subsection without approval of the issuance by the General Assembly if
5 the cumulative outstanding indebtedness of the corporation that does not meet
6 the requirements of paragraph (a) of this subsection does not exceed thirty
7 million dollars (\$30,000,000).

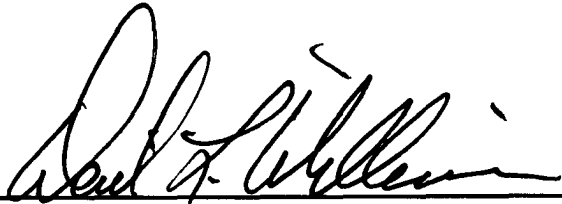
8 (c) The corporation shall annually report on its housing and bonding programs to
9 the Interim Joint Committee on Appropriations and Revenue.

10 (7) The Finance and Administration Cabinet shall provide to the corporation fiscal
11 consultant services regarding revenue bond management as necessary.

12 ➔Section 5 Whereas in order to assist the Kentucky Housing Corporation to
13 provide more viable home mortgage options to a greater number of Kentuckians as soon
14 as possible, an emergency is declared to exist and this Act takes effect upon its passage
15 and approval by the Governor or upon its otherwise becoming a law.



Speaker-House of Representatives



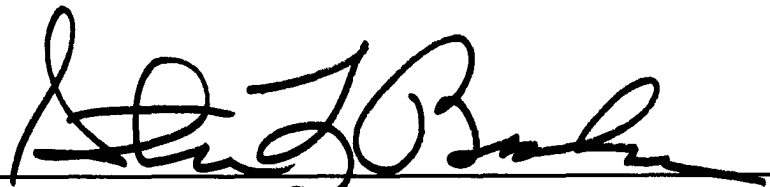
President of Senate

Attest:



Chief Clerk of House of Representatives

Approved



Governor

Date

March 15, 2011